

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

TIMOTHY MOXLEY, et al.,

Plaintiffs,

v.

THE OHIO STATE UNIVERSITY,

Defendant.

Case No. 2:21-cv-03838

Judge Michael H. Watson

Chief Magistrate Judge Elizabeth P.  
Deavers

**PLAINTIFFS' MOTION TO EXCEED PAGE LIMITATIONS FOR  
BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

Plaintiffs, by and through counsel, hereby respectfully move this Honorable Court, pursuant to the Court's Standing Order, for an order permitting Plaintiffs to exceed the Court's twenty (20) page limitation and respond to Defendant's Motion to Dismiss, Dkt. 17, by way of a brief of no more than thirty (30) pages. Pursuant to S.D. Ohio Civ. R. 7.3, Plaintiffs conferred with Defendant by email on September 22, 2021. Defendant has not yet responded to Plaintiffs' request.

For reasons more fully set forth in the Memorandum in Support, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion.

Dated: Columbus, OH  
September 23, 2021

Respectfully submitted,

By: /s/ Scott E. Smith  
SCOTT ELLIOTT SMITH, LPA  
Scott E. Smith (0003749)  
Michael L. Dillard, Jr. (0083907)  
5003 Horizons Drive, Suite 100  
Columbus, Ohio 43220  
Phone: (614) 846-1700

Fax: (614) 486-4987  
E-Mail: [ses@sestrailaw.com](mailto:ses@sestrailaw.com)  
E-Mail: [mld@sestrialaw.com](mailto:mld@sestrialaw.com)

EMERY CELLI BRINCKERHOFF ABADY  
WARD & MAAZEL LLP  
Ilann M. Maazel (admitted *pro hac vice*)  
Debra L. Greenberger (admitted *pro hac vice*)  
Marissa Benavides (admitted *pro hac vice*)  
600 Fifth Avenue, 10<sup>th</sup> Floor  
New York, New York 10020  
Phone: (212) 763-5000  
Fax: (212) 763-5001  
E-Mail: [imaazel@ecbawm.com](mailto:imaazel@ecbawm.com)  
E-Mail: [dgreenberger@ecbawm.com](mailto:dgreenberger@ecbawm.com)  
E-Mail: [mbenavides@ecbawm.com](mailto:mbenavides@ecbawm.com)

Adele P. Kimmel (admitted *pro hac vice*)  
Alexandra Brodsky (admitted *pro hac vice*)  
PUBLIC JUSTICE, P.C.  
1620 L Street, NW, Suite  
630 Washington, DC 20036  
Phone: (202) 797-8600  
Fax: (202) 232-7203  
E-mail: [akimmel@publicjustice.net](mailto:akimmel@publicjustice.net)

*Attorneys for Plaintiffs*

**MEMORANDUM IN SUPPORT**

Plaintiffs respectfully move the Court, pursuant to the Court's Standing Order, for an order permitting Plaintiffs to exceed the Court's twenty (20) page limitation and respond to Defendant's Motion to Dismiss, Dkt. 17, by way of a brief of no more than thirty (30) pages. This case presents the extraordinary circumstances warranting an expansion of the page limitations: Plaintiffs consist of 34 individuals with claims against OSU embodied in a 159-page Complaint with 936 paragraphs. Plaintiffs have two separate bases, each supported by different caselaw, as to why their claims did not accrue until 2018 at the earliest, and a third basis for timeliness, namely equitable tolling. Plaintiffs recognize that the Court resolved motions to dismiss in its September 22, 2021 Decision and Order in the related cases of *Garrett, et al. v. The Ohio State University*, No. 18-cv-672 (S.D. Ohio Sept. 22, 2021), Dkt. 197, and *Snyder-Hill, et al. v The Ohio State University*, No. 18-cv-736 (S.D. Ohio Sept. 22, 2021), Dkt. 158. Nevertheless, these 34 Plaintiffs need a full and fair opportunity in this separate matter to present their position and to ensure that they do not face claims upon appeal that they waived or failed to preserve arguments.

To ensure an appropriate presentation of the facts and the law in this case which is of utmost importance to each of our 34 clients, Plaintiffs seek permission to file a brief of no more than thirty (30) pages. This Court granted a similar request to plaintiffs in *Snyder-Hill*, Dkt. 132, permitting plaintiffs to file a forty (40) page brief in opposition to Defendant OSU's motion to dismiss that action.

Pursuant to S.D. Ohio Civ. R. 7.3, Plaintiffs conferred with Defendant regarding Plaintiffs' request for an extension. As of the filing of this motion, Defendant has not responded to Plaintiffs' request, made by email on September 22, 2021.<sup>1</sup>

For good cause shown, Plaintiffs respectfully request the Court grant Plaintiffs permission to file a brief of no more than thirty (30) pages to oppose Defendant's Motion to Dismiss.

Respectfully submitted,

By: /s/ Scott E. Smith  
SCOTT ELLIOTT SMITH, LPA  
Scott E. Smith (0003749)  
Michael L. Dillard, Jr. (0083907)  
5003 Horizons Drive, Suite 100  
Columbus, Ohio 43220  
Phone: (614) 846-1700  
Fax: (614) 486-4987  
E-Mail: [ses@sestrailaw.com](mailto:ses@sestrailaw.com)  
E-Mail: [mld@sestrailaw.com](mailto:mld@sestrailaw.com)

EMERY CELLI BRINCKERHOFF ABADY  
WARD & MAAZEL LLP  
Ilann M. Maazel (admitted *pro hac vice*)  
Debra L. Greenberger (admitted *pro hac vice*)  
Marissa Benavides (admitted *pro hac vice*)  
600 Fifth Avenue, 10<sup>th</sup> Floor  
New York, New York 10020  
Phone: (212) 763-5000  
Fax: (212) 763-5001  
E-Mail: [imaazel@ecbawm.com](mailto:imaazel@ecbawm.com)  
E-Mail: [dgreenberger@ecbawm.com](mailto:dgreenberger@ecbawm.com)  
E-Mail: [mabenavides@ecbawm.com](mailto:mabenavides@ecbawm.com)

Adele P. Kimmel (admitted *pro hac vice*)  
Alexandra Brodsky (admitted *pro hac vice*)  
PUBLIC JUSTICE, P.C.

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<sup>1</sup> Defendant initially responded to Plaintiffs' request for consent on this motion with its proposed conditions of consent. Plaintiffs responded with a counter-proposal that Plaintiffs would seek ten (10) additional pages of briefing for a total of thirty (30) pages and would consent to Defendant seeking five (5) additional pages of briefing on reply. Defendant did not respond to this counter-proposal.

1620 L Street, NW, Suite  
630 Washington, DC 20036  
Phone: (202) 797-8600  
Fax: (202) 232-7203  
E-mail: [akimmel@publicjustice.net](mailto:akimmel@publicjustice.net)

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing document was filed and served, via the Court's CM/ECF system on September 23, 2021, on all counsel of record.

By: /s/ Scott E. Smith  
Attorney for Plaintiffs